

REMARKS**I. STATUS OF THE CLAIMS**

Claims 1-61 are pending in the application.

Claims 1, 20, and 52 are independent claims.

Claims 20-61 are allowed.

Claim 1 stands rejected under 35 U.S.C. § 102.

Claims 3 stands rejected under 35 U.S.C. § 112(2).

Claim 2 is objected because of formalities.

Claim 2 and 4-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

New claim 62 has been added and support can be found, for example but not limited thereto, at pages 16, lines 12-23 and page 23, lines 7-15. It is believed that the amendments do not involve the addition of any new matter.

II. CLAIM 1 OBJECTION

Claim 2 was objected due to the following informalities pointed out by the Examiner:

In claim 2, "said reference filter assembly" should be --a reference filter assembly--since it was not disclosed previously. The claims have many of these types of errors and it is the responsibility of the applicant to correct. Appropriate correction is required.

(See Office Action, par. 1, page 2)

Applicants respectfully point out that "a reference filter assembly" was introduced in the preamble at line 1 of claim 2 and therefore provides proper antecedent basis at line 6 of claim 2. In addition, subject matter of claim 2 has been incorporated into

independent claim 1. Applicants respectfully request that the Examiner's objections of the claim be withdrawn.

III. CLAIM 3 IS DEFINITE WITH THE MEANING OF 35 U.S.C. 112(2) IN VIEW OF THE AMENDMENTS TO THE CLAIM AND BECAUSE THE CLAIMS APPRISE THOSE SKILLED IN THE ART OF THE SCOPE OF THE INVENTION.

Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Office Action states:

Claim 3 recites the limitation "said sample bandpass filter" in line 2. There is insufficient antecedent basis for this limitation in the claim. It is unclear if this sample banpass filter is the same as the sample filter assembly. The claims have many of these types of errors and it is the responsibility of the applicant to correct.

(See Office Action, para. 3, page 2)

Applicants have amended claim 3 as suggested by the Examiner so as to provide proper antecedent basis. These amendments were not made for the purpose of narrowing the scope of the claims. Support, for example but not limited thereto, can be found at page 15, line 14 through page 16, line 11. Similarly, claims 13, 25 and 26 have been amended.

Accordingly, Applicants respectfully request that the Examiner's rejection of claim 3 under 35 U.S.C. § 112(2) be withdrawn.

IV. CLAIM 1 IS NOT ANTICIPATED UNDER 35 USC § 102(E) BY RABBETT BECAUSE THE PRIOR ART RELIED UPON BY THE EXAMINER FAILS TO DISCLOSE THE LIMITATIONS OF THE APPLICANTS' INVENTION.

Claim 1 was rejected under 35 U.S.C. 102(e) as being anticipated by Rabbett U.S.

Patent 5,886,247 (hereinafter "Rabbett"). In particular, the Office Action states:

Raddett ('247) discloses a first optical path and a second optical path (See Fig. 3); a light collecting optics (Fig. 3, Ref. 14) configured to collect light (Fig. 3, Ref. 12) or other radiation to be transmitted along the first and second optical path; a sample filter assembly (Fig. 3, Ref. 16) positioned in the first optical path after the light collecting optics (Fig. 3, Ref. 14); a sample detector assembly (Fig. 3, Ref. 26) positioned in the first optical path after the sample filter assembly (See Fig. 3), and a reference detector assembly (Fig. 3, Ref. 44) positioned in the second optical path after the light collecting optics (Fig. 3, Ref. 14); and a detector output comparison device (Fig. 3, Ref. 11).

(See Office Action, para. 5, page 3

Applicants have incorporated limitations of claim 2, having allowable subject indicated in the Office Action, into base claim 1. Applicants are preserving all their rights to pursue the subject matter of the original claims in any future patent applications, including any divisional or continuations.

Accordingly, Applicants respectfully request that the Examiner's rejections of claim 1 under 35 U.S.C. § 102(e) be withdrawn.

V. CONCLUSION

For the foregoing reasons, Applicants respectfully submit that claims 1-62 are in condition for allowance, and a notice for allowance is solicited. Should questions arise during examination, the Examiner is welcome to contact the Applicants' attorney at the telephone listed below.

Please charge any excess fees due and credit any overpayment to Charge Account

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